

### **REMARKS/ARGUMENTS**

This amendment responds to the office action dated June 7, 2006.

The Examiner rejected claims 2-5 and 41 under 35 U.S.C. §103(a) as being obvious in view of the combination of Alexander et al., U.S. Patent No. 6,177,931 (hereinafter Alexander) and Ivanyi, U.S. Patent No. 6,286,140 . Claim 41 has been canceled. In addition, the preamble of claim 2 has been amended for clarity to claim, “[i]n combination with an audiovisual information management system resident on an electronic device having a memory containing a usage preferences description scheme that describes current preferences of a user with respect to at least one of an audio, an image, or a video comprising a plurality of frames, a usage history description scheme . . .”

The Examiner’s rejection of claims 2-5 is improper, as the prior art fails to disclose a motive for combining the teachings of Alexander and Ivanyi. Alexander discloses an EPG that develops a user profile for the purpose of efficiently pushing targeted advertisements on the user, i.e. the stored user profile is used to determine which advertisements or other content the user might wish to view. To that end, Alexander discloses storing certain information about the content viewed by the user, and using that stored information to periodically update the user profile.

Ivanyi, conversely, is concerned with collecting statistical information, en-mass, about the viewing patterns of a large number of users, so as to formulate Nielson ratings and the like. *See* Ivanyi at col. 1 lines 15-44; *Id.* at col. 2 lines 4-7 and col. 10 lines 26-29. To that end, the system of Ivani uses a memory storage unit on a set top box to record the *instantaneous* viewing selections of each viewer, so that the set top box may be periodically polled, and the results for a multitude of users aggregated by a central server so as to compile the group statistical behavior. Inherent to this system is that it does not use the stored information to compile or update a profile of the individual user’s potential future interests. For example, the system of Ivanyi merely monitors “real time” operational states of the set top box, such as whether it is turned on or off, what channel it is tuned to, whether the viewer is listening to the channel, etc. Ivanyi

accomplishes this monitoring activity by recording the instantaneous settings in data latch that is polled as frequently as every five to ten seconds. *See Id.* at col. 1 lines 13-15. Once polled, the data stored in the set top box is discarded. *See Id.* at col. 10 lines 28-30.

Thus neither Ivanyi nor Alexander discloses any prior art motive for including the instantaneous information regarding a user's volume settings within the thesaurus of Alexander's user profile. At best, Ivanyi discloses the desirability of having a set top box that includes, in addition to the user profile of Alexander, the latch/polling system of Ivanyi, but such a set top box would separate the systems of Alexander and Ivanyi.

To further clarify this distinction, independent claim 2 has been amended to recite the additional limitations of "said usage history description scheme operatively interconnected to [a] usage preferences scheme" that "describes current preferences of a user with respect to at least one of an audio, an image, or a video comprising a plurality of frames", "so as to periodically update said usage preferences description scheme." The applicant notes that Ivanyi records, with a data latch, the binary states of actions taken by the user through an interface such as a remote, while Alexander's user profile records non-binary information regarding the content being delivered by the set top box. Thus, not only is there a lack of prior art motive to make the suggested combination, but neither of the systems disclosed by Alexander and Ivanyi, respectively, would be independently capable of accomplishing the dual purposes of both references. Specifically, the system of Ivanyi could not even store the non-binary, content-specific information of Alexander's user profile, and, while Alexander's user profile is periodically updated using stored information about a user's past content choices, Alexander discloses no teachings as to how information on volume settings might be used to update the user preferences description. Thus, neither reference discloses any prior art motive, whether express or implicit, to include, in a usage history description scheme used to periodically update a user preferences description scheme, information on volume settings. Absent that prior art suggestion, the Examiner's rejection is improper.

Accordingly, each of claims 2-5, as amended, are patentably distinguishable over the combination of Alexander and Ivanyi, and the Examiner's rejection of these claims 2-5 should

therefore be withdrawn.

The Examiner rejected claims 6-10 and 43 under 35 U.S.C. § 103(a) as being obvious in view of the combination of Alexander and Del Sesto et al., U.S. Patent No. 6,530,082. The Examiner's rejection maintains the same rejection set forth in the previous office action, to which the applicant has already responded. Though the Examiner contends that the applicant's response was unpersuasive, the Examiner failed to specifically respond to applicant's arguments, instead simply making the generic assertion (which was also made with respect to applicant's arguments regarding independent claims 11, 16, 24, and 34, each of which presented different limitations with different arguments as to their patentability) that "the test for obviousness is not whether the features of a secondary reference may be bodily incorporated into the structure of the primary, nor is it that the claimed invention must be expressly suggested in any one or all the references, but rather [the relevant issue is what] the combined teachings of the references . . . would have suggested to those of ordinary skill in the art." The Examiner's assertion, which may be true in the abstract, is unresponsive to the actual arguments made by the applicant.

For example, independent claim 6 includes the limitation of "said description scheme including at least one type characterized by, at least in part, a time associated with said at least one of said audio, image, and video, said time expressed in coordinated universal time *and* media time." (emphasis added). The Examiner concedes that Alexander only discloses expressing a time in media time. The applicant's argument of record is that there is no prior art suggestion to express the claimed time in both media and coordinated universal time. To the contrary, Del Sesto, expressly discloses expressing the time in *either* a coordinated universal time or a local time for broadcast receivers, but not both. Thus, the Examiner's generic assertion, quoted in the preceding paragraph, is simply of no relevance at all to claim 6, and the applicant's arguments of record, since applicant never argued that Del Sesto's system could not be bodily incorporated into Alexander's, and since the Examiner never made any attempt to explain why one of ordinary skill in the art, upon reading both references, would have modified Alexander's system to include *both* media and coordinated universal time. To the contrary, applicant argued that one of ordinary skill in the art would at best read Del Sesto's express teaching that either one or the other may be

used as a suggestion for a *substitution* rather than an addition. Applicant also noted that the Examiner's purported motive for the combination – allowing “the system to operate independent of the receivers and transmitters with out the need to synchronize [those] receivers and transmitters” would be achieved by *substituting* coordinated universal time for media time, therefore *reinforcing* applicant's arguments; i.e. one of ordinary skill in the art, motivated to achieve the very advantage cited by the Examiner, would not express time in *both* media and coordinated universal time, but would instead take Del Sesto's suggestion of a substitution. The Examiner's response fails to rebut applicant's arguments, and therefore, the rejection of claims 6-10 and 43 should be withdrawn.

Similarly, independent claims 11, 16, and 34 each include the limitation of “usage history description scheme stored on a mobile storage device selectively insertable into a multimedia system.” Applicant's arguments of record were that Alexander, while disclosing the compilation of a usage history description scheme, fails to disclose or suggest storing that scheme on a mobile storage device. The Examiner does not dispute this assertion. The applicant also argued that the secondary reference, Schnase, merely disclosed mobile storage devices (data cards) that could be inserted into display kiosks of museums, zoos, etc to record additional information about the displays for a customer's later perusal. Though the data cards also store customer profile information, which is readable from the kiosks and from which a museum or zoo may collect demographic information about which displays invoke the most interest, this teaching would be of *no utility* to the system of Alexander. A cable box user has no need to download any content of the cable box onto a magnetic card, nor does either reference disclose the need for Alexander's profile information to be mobile, given that the profile is only used by a set top box *in the customer's home*. Absent any prior art disclosure of a need to shop Alexander's viewer profile information to varying locations, of which the Examiner cites none, then one of ordinary skill in the art would not think to store Alexander's usage history scheme on a mobile storage device. Moreover, the Examiner's purported motive, to “provide privacy to users and also programming flexibility” is senseless for the very same reason – Alexander's profile is only used by a set top box already in the privacy of a customer's home, and to the extent that the profile

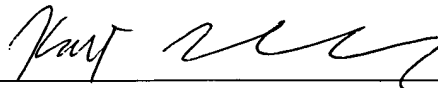
information is shared with the service provider so as to push advertising on the customer, privacy is already lost. The Examiner has failed to state exactly how the transfer of profile information from a set top box to a magnetic card would increase the privacy of a customer. Nor has the Examiner explained how such a transfer would increase programming flexibility not already achieved by Alexander's set top box.

Finally, the Examiner's rejection of claims 24-27 under 35 U.S.C. § 103(a) as being obvious in view of the combination of Alexander and Juels, U.S. Patent App. No. 2002/0026345 was also overcome by applicant's prior arguments. Specifically, independent claim 24, from which claims 25-27 depend, includes the limitation of "said usage history description scheme including data indicating whether personal identification information of said user is intended to be revealed to third parties." Since Alexander neither discloses recording personal identification of any user, nor discloses any need for recording personal identification information (a statement the Examiner apparently does not dispute), then one of ordinary skill in the art would never modify Alexander's system to include an option of whether to reveal or not reveal to a third party that non-existent information. The Examiner's asserted motive of permitting the user to "choose [which] portion of his profile to conceal and provide privacy protections to the user profile information" is irrelevant given that the profile information recorded by Alexander does not include "personal identification information" in the first place. Nor has the Examiner attempted to argue that one of ordinary skill in the art would include personal identification information in a set-top-box-viewer's content profile, such as Alexander's; the content provider has no need to include personal identification information in the profile. Absent some explanation from the Examiner of prior art disclosing the desirability of including personal identification information in Alexander's profile, the Examiner's rejection cannot be maintained. Therefore, each of claims 24-27 is patentably distinguished over the cited prior art and the rejection of each of these claims should be withdrawn.

Appl. No. 09/823,377  
Amdt. dated September 7, 2006  
Reply to Office Action of June 7, 2006

In view of the foregoing amendments and remarks, the applicant respectfully requests reconsideration and allowance of claims 2-38, and 42-48.

Respectfully submitted,

A handwritten signature in cursive script, appearing to read 'Kurt Rohlfs', written over a horizontal line.

Kurt Rohlfs, Reg. No. 54,405

Tel: 503-227-5631

Fax: 503-228-4373